

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE.

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVE SOMERS

Appeal No. 2006-0054
Application No. 10/007,189

ON BRIEF

Before McQUADE, CRAWFORD and BAHR, Administrative Patent Judges.
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Steve Somers appeals from the final rejection (mailed October 16, 2003) of claims 8-13, 15 and 16, all of the claims pending in the application.

THE INVENTION

The invention relates to a socket wrench. Representative claim 8 reads as follows:

8. Socket wrench-making parts adapted to form a wrench with opposite outer ends with which can be applied over and rotate non-circular elements of at least two sizes, said parts including:

a left and a right external driver member means-receiving part each having a first outer end to be located at a different opposite

longitudinal outer end of the wrench when the parts are assembled and an opposite second inner end, said left and right parts respectively having walls defining differently-sized, non-circular sockets in the first outer ends thereof to be located at the opposite longitudinal ends of the assembled parts and applied over differently sized elements to be rotated by the wrench, said sockets each having an end opening thereat onto the exterior of the part involved so that the socket can be applied over and its defining walls interlock with a selected element of corresponding size to be rotated by said wrench and an opposite end opening onto a first smaller driver member-receiving bore in turn opening upon a second ball member-forming part-receiving bore, said first smaller driver member-receiving bore having bore-defining walls adapted to interlock with an external driver member means sized to be inserted into the open end of the associated larger outer socket and then moved inwardly into the associated driver member-receiving bore where it interlocks with said left or right part involved so that so that rotation of the driver member will rotate the wrench and turn said element enveloped by said socket at the other end of the assembled wrench;

a ball member-forming part adapted to be secured to and between the said second inner ends of said left and right external driver member means-receiving parts, the second inner ends of the left and right parts respectively having walls defining a pair of ball member-receiving surfaces, at least one of which forms a ball-receiving bore; said ball member-forming part having a ball-forming end adapted to adjustably fit in said ball-receiving bore of one of said left and right parts and an [sic] a second end adapted to be fixedly mounted against the ball member-receiving surfaces of the other of said left and right parts; and

pivot-forming first and second means permitting the pivoting of said ball-forming end of said ball member-forming part in the ball-receiving bore involved at least in a plane which includes a longitudinal axis extending between said outer ends of the wrench.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Gadberry	1,478,736	Dec. 25, 1923
Bellows	1,584,208	May 11, 1926
Martinez	4,807,499	Feb. 28, 1989
Jarvis	6,092,441	Jul. 25, 2000

THE REJECTION

Claims 8-13, 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jarvis or Martinez in view of either Gadberry or Bellows. According to the examiner,

Jarvis or Martinez shows the claimed invention except for the use of a socket portion in both "socket forming and driver receiving pads"^[1] that has two different size apertures in each. Either Gadberry or Bellows suggests that a driver can have such a double aperture socket so that the drive receiving aperture is the inner aperture. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Jarvis or Martinez by using a socket portion having two apertures per socket portion because either Gadberry or Bellows suggests the use of such a double aperture socket in a single tool [answer, page 3].

¹ The appealed claims do not include this terminology. In a paper filed August 26, 2003, the appellant amended the claims to refer instead to left and right external driver member means-receiving parts.

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Attention is directed to the brief (filed March 16, 2004) and answer (mailed May 14, 2004) for the respective positions of the appellant and examiner regarding the merits of this rejection.²

DISCUSSION

Jarvis pertains to "articulating socket adapter[s] that can accommodate different sizes of socket square drives and sockets" (column 1, lines 60-61). Each of the adapters disclosed (see Figures 2, 5, 13 and 18) consists of two square drive sections connected together by an articulated joint. In use (see column 5, lines 4-19), the two square drive sections are respectively coupled to a socket (see Figures 1 and 9-11) and a multi-size drive adapter (see Figures 1, 6-8 and 15-17).

Martinez discloses a socket wrench comprising a drive shaft 5, a cylindrical drive member 2 mounted to one end of the shaft and a socket 21 connected to the other end of the shaft via an articulated joint.

In applying Jarvis and Martinez against the appealed claims, the examiner fails to set forth any reasonably detailed findings as to the manner in which these references are considered to meet or

² On page 1 in the brief, the appellant concedes that the appealed claims are in need of amendment to correct a number of inconsistencies. In the event of further prosecution before the examiner, the claims should be carefully reviewed and amended toward this end.

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not meet the various limitations in the claims. Notwithstanding the examiner's apparent determination to the contrary, Jarvis and Martinez do not seem to be particularly relevant to the subject matter claimed. For example, neither reference teaches or suggests left and right external driver member means-receiving parts having the particular socket, driver receiving bore and ball member receiving bore/walls recited in independent claims 1, 13 and 15, or the structural relationship between the left, right and ball member parts recited in claims 13 and 15. These substantial evidentiary deficiencies in Jarvis and Martinez find no cure in the examiner's further application of either Gadberry or Bellows.

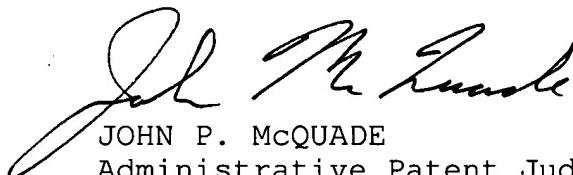
Hence, as applied by the examiner, Jarvis, Martinez, Gadberry and Bellows do not justify a conclusion that the differences between the subject matter recited in independent claims 8, 13 and 15 and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of independent claims 8, 13 and 15, and dependent claims 9-12 and 16, as being unpatentable over Jarvis or Martinez in view of either Gadberry or Bellows.

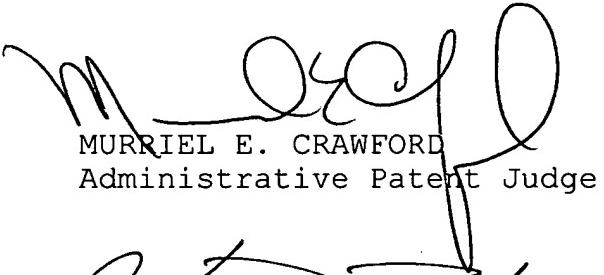
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SUMMARY

The decision of the examiner to reject claims 8-13, 15 and 16
is reversed.

REVERSED


JOHN P. MCQUADE)
Administrative Patent Judge)


MURRIEL E. CRAWFORD) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES


JENNIFER D. BAHR)
Administrative Patent Judge)

JDB/ki

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Russell E. Hattis
1640 Jasmine Court
Highland Park, IL 60035